RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2015—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 636, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to Calendar No. 55, H.R. 636, to amend the Internal Revenue Code of 1986 to permanently extend increased expensing limitations, and for other purposes.

The PRESIDING OFFICER. The assistant Democratic leader.

NOMINATION OF MERRICK GARLAND

Mr. DURBIN. Mr. President, there is an old verse that reads, if I remember correctly, as follows: While I was going up the stair, I met a man who wasn't there. He wasn't there again today. I wish that man would go away.

That man in the U.S. Senate is Merrick Garland, a person whom I am sure the Republican leadership wishes would just go away. But he is not going to go away.

Merrick Garland is the nominee whom President Obama has sent forward to fill the vacancy on the Supreme Court occasioned by the untimely death of Antonin Scalia. In sending that name forward, President Obama was meeting his constitutional responsibility. Article II, section 2 of the U.S. Constitution states clearly that the President shall—shall—nominate a person to fill a vacancy on the U.S. Supreme Court. It goes on to say that the responsibility of the Senate is to provide advice and consent to Supreme Court nominations. It is very clear. The men who wrote the Constitution understood the importance of filling a vacancy on the U.S. Supreme Court, and they understood it to be so important that they mandated that the President send the nominee forward to fill that vacancy.

You can read that Constitution from start to finish and never find the rationale being used by Senator MCCONNELL, the majority leader of the Senate, to stop that nomination from being considered in the Senate. There is no argument made in the Constitution—nor has there ever been an argument made—that because the President is in the last year of his 4-year term, he no longer has a constitutional responsibility to fill a vacancy on the Supreme Court. In fact, never—underline never—has the Senate refused a hearing to a nominee who has been sent forward by a President of the United States to fill this important vacancy. It speaks volumes that Senator MCCONNELL, the Republican leader, has decided—has taken it on himself—to stop the Senate from considering the President's nominee.

It is an embarrassing position to take for many of his colleagues. Look at what they are going through. Republican Senators who went home over this Easter break—many of them—went to town meetings where people asked this very basic question: Senator, why is it that you won't do your job? Why won't you even give a hearing to this man who was sent by the President for consideration by the Senate to fill this important vacancy?

It is a hard question to answer if you take the position of Senator MCCONNELL, the Republican leader, because the answer is that, basically, he is arguing that this President has no authority—no authority to fill this vacancy. Senator MCCONNELL argues that we should hold this vacancy open for the rest of this calendar year into next year so that a new President—whoever that might be—would have the power to fill this vacancy. He argues that the American people will speak through this next election as to a new President and that person should have the authority.

Well, what we discovered over the course of the last several weeks is this isn't about giving the American people a voice in choosing to fill that vacancy; it is about giving two individuals, the Koch brothers, the decision to fill that vacancy. These brothers have decided it is in their best interests—their political interests, their economic interests, whatever it may be—to keep this spot vacant on the U.S. Supreme Court in the hopes that a Republican Presidential candidate will win the election and fill the Court vacancy with the blessing of the Koch brothers. So Republican Senators are going back to their home districts and States, basically facing the electorate in their home States, and finding it impossible to justify avoiding any consideration of this nominee.

It got more difficult this morning.

I ask unanimous consent that this article from the Washington Post be printed in the RECORD in its entirety. The Washington Post has reported that U.S. Appeals Court Judge Merrick Garland is getting a boost for his Supreme Court nomination from some of the lawyers who know him best—his former law clerks. It goes on to say that 68 former law clerks for this judge have written to Members of Congress recommending him based on their personal experience of working professionally with him.

Let me read this passage from their letter:

There are not many bosses who so uniformly inspire the loyalty that we all feel toward Chief Judge Garland. Our enthusiasm is both a testament to his character and a reflection of his commitment to mentoring and encouraging us long after we left his chambers. He has stood by our side during the happiest moments of our lives—quite literally, having officiated the weddings of seven of his former clerks. He has welcomed us and our growing families into his home. He is a constant source of career advice and guidance. And he has offered love and support in the dark times, too, when we have suffered setbacks, losses, and uncertainty.

This article one might expect from his clerks saying what a good person he is, but they have gone out of their way to suggest to the Senate that a person of this quality and this integrity should be treated fairly—fairly.

I listened to some of the comments that are being made on the Republican side about this man, and it is a long way from fairness. What they are saying to him is we don't care about where you came from. We don't care about your education. We don't care about your professional qualifications. We don't care about your career on the bench. We care that you have been nominated by President Barack Obama, and as far as Senator MCCONNELL is concerned, enough said.

If Barack Obama nominates this man, Senator MCCONNELL has made it clear he will deny to him something that has never ever been denied to a Supreme Court nominee in the history of the United States of America: a fair hearing.

That is why it is painful for a lot of Republican Senators to go back and face audiences. The partisans in the audience come in, in a predictable state, with Republicans saying: Hold the line. Don't let Obama act like a President of the United States. We want him to go away. Democrats come in and ask: Can't you at least give this man a hearing? I would say to my Republican colleagues: Listen to the people who view themselves as Independents in this country, folks who don't carry a party label. They are saying overwhelmingly that Merrick Garland is entitled to a hearing before the U.S. Senate. He is an extraordinarily well-qualified man. There is no credible justification to refuse to give him a hearing.

Merrick Garland was born in Chicago. His father ran a small business. His mother volunteered in the Rogers Park neighborhood. He was the grandson of immigrants who fled anti-Semitism in the Pale of Settlement in Russia. They came to America in the early 1900s. Judge Garland grew up in Lincolnwood, IL. He graduated at the top of his class at Niles West High School in Skokie. He earned an undergraduate and law degree from Harvard. He was a law clerk to Judge Henry Friendly on the Second Circuit and to Supreme Court Justice William Brennan.

He had a distinguished career at the Justice Department. They sent Merrick Garland down after the Oklahoma City tragedy, when there was a terrible incident—a domestic terrorist bombing—that killed and maimed so many people. The prosecution of that accused terrorist was the highest priority for the Department of Justice. They had to get it right, not just for the cause of justice but for the victims and their families. They had to get it right on this prosecution. So they sent their very best prosecutor, Merrick

Garland. He was given that responsibility and took it very seriously. He used to carry around with him the names of those who died in that Oklahoma City terrorist incident as a reminder of the solemn responsibility which he carried in this undertaking. That is the kind of person he is.

He successfully prosecuted those who were engaged in the terrorism that caused that terrible event. The Department of Justice thought that highly of him, and his performance in Oklahoma City was so stellar that he achieved his goal—a fair and effective prosecution.

The Senate considered Merrick Garland for the second highest court of the land, the D.C. Circuit Court in 1997. He received a majority vote on both sides of the aisle, Republicans and Democrats. The total final vote was 76 to 23. Thirty-two Senate Republicans voted to confirm Judge Garland. He has been on that court—the D.C. Circuit—for 19 years and he has been the chief judge for the last 3 years.

Throughout his lengthy judicial career, Chief Judge Garland has been praised for his intelligence, knowledge of the law, adherence to precedent, and his ability to forge a consensus. Listen to what Chief Justice John Roberts of the U.S. Supreme Court said during his own confirmation hearing: ''Any time Judge Garland disagrees, you know you're in a difficult area.''

I have my differences with Chief Justice Roberts of the U.S. Supreme Court, but I will be the first to say his presentation to the Senate Judiciary Committee was one I will never forget. He sat there for 2 days, without a note in front of him, and answered every question effectively and eloquently. I left there with the distinct impression he was one of the brightest individuals who had ever been nominated to the Supreme Court.

So this man, Chief Justice Roberts, whether we agree with his politics or his decisions, should be listened to when he says of Merrick Garland, President Obama's nominee, that if you disagreed with Judge Garland, you know you are in a difficult area. That is high praise from Chief Justice John Roberts. It is high praise for a man who has been denied a hearing before the Senate Judiciary Committee for the first time in the history of the Senate.

I commend Judge Garland for his many decades of public service and congratulate him and his wife Lynn and their daughters for the great honor they have been given to be nominated to the U.S. Supreme Court. I offer as well a word of apology to them for the way they are being treated by the U.S. Senate. This is not right.

I hope that in the quiet and the solitude of their own Republican caucus lunch, they will close the door and turn to one another and say: This is not fair. It is not right. We owe this man a hearing. I am not saying he should be rubberstamped. I am not saying the Senate Republican majority should approve this man, although I think it is difficult not to. I am saying he should be given a hearing. He deserves that respect from the U.S. Senate.

It would be terrible and beneath the dignity of the Senate Republicans to close the doors of the Senate to such an accomplished American and deny him a fair hearing and a vote. The President has met his responsibility. The Senate should do no less.

I know Merrick Garland is in for a rough ride. The senior Senator from Texas said as much a few weeks ago. He said President Obama's Supreme Court nominee would ''bear some resemblance to a pinata.''

Do we know what that means? Remember, if you will, that Mexican custom of filling a paper mache animal with candy, then blindfolding a child and giving him a stick or a bat to try to swing wildly and beat on that pinata until it is broken open and the candy hits the floor. That was the analogy used by the senior Senator from Texas as to how Merrick Garland should expect to be treated if his nomination comes before the Senate. It is a sad commentary, but it may reflect the reality of the bitter political environment we live in. It is troubling to hear our nomination process in the Senate characterized this way.

There is a way to avoid pinata politics. Let's give Merrick Garland a fair hearing.

Right now, conservative groups and some Senate Republicans are taking their swings blindly at Merrick Garland. They are flailing around, hoping to find some argument to justify the mistreatment which they are offering. For example, there is a rightwing advocacy group calling itself the Judicial Crisis Network, whatever that is, that recently announced a multi-State ad campaign against Judge Garland. How about that. They will not give him a hearing. They will not even let him sit down in a chair under oath and face questions and give answers, but they have started a multi-State ad campaign against him. The campaign said that with Garland on the bench, the Second Amendment would be ''gutted'' because ''in two separate cases, Garland has demonstrated his strong hostility to gun owner rights.'' Several Senate Republicans have echoed this attack. They have heard this so-called Judicial Crisis Network ad and they have decided to amplify it.

However, there is no argument that can be made seriously or fairly for the proposition that Judge Garland opposes the Second Amendment in his rulings.

There are two cases mentioned by this rightwing organization on the subject. They date back many years to 2000 and 2007. The first was a case involving the auditing of background check records. When that case was appealed to the Supreme Court, the Justice Department of President George W. Bush, led by conservative Attorney General John Ashcroft, agreed with Judge Garland's position. There was no controversy as far as they were concerned. So a Republican President and a Republican Attorney General agreed with the ruling of Judge Garland.

In the other case in which Judge Garland is accused of having overstepped the bounds on the Second Amendment, he never even addressed any substantive Second Amendment issue.

If the Judicial Crisis Network was so outraged by these decisions in the year 2000 and the year 2007, why didn't they bring it up in 2010 when Merrick Garland was in the running to fill a vacancy on the Supreme Court? In that year, Carrie Severino, the head of that organization—the Judicial Crisis Network—told the Washington Post:

> Of those the President could nominate, we can do a lot worse than Merrick Garland. He's the best scenario we could hope for to bring the tension and the politics in the city down a notch for the summer.

I just quoted the person who was in charge of the Judicial Crisis Network when Merrick Garland was under consideration for the Supreme Court six years ago. Now that same network has decided to spend millions of dollars to stop this nominee.

If Judge Garland's views on the Second Amendment were so objectionable, why has he been praised by Charles Cooper, the gun lobby's top outside attorney? On March 28 of this year, Cooper told the Washington Post about his ''high opinion'' of Garland as a judge.

So here is the reality. Rightwing advocacy groups like the Judicial Crisis Network are swinging wildly at Judge Garland. They mischaracterize his record and they attack his judgment in an effort to discredit him. If the Senate holds a public hearing for Garland, he would at least have his day to state his position clearly on the Second Amendment, but they are so afraid of what he is going to say, the Republican leadership in the Senate has denied Merrick Garland an opportunity for a hearing at this point in time.

At a hearing, the American people could judge for themselves. How about that for a novel idea; that we would put Merrick Garland under oath, sit him at a table, ask whatever questions we consider to be important for his nomination, and then let the American people decide. The Republicans will have nothing to do with that. Senator MCCONNELL has said from the start he is never going to allow that to occur.

The Senate is doing Judge Garland and our Nation a grave disservice if we don't move forward with a public hearing on this nomination, as we have with every other Supreme Court nominee that has been sent by a President.

Just for the record, go back to 1987, when a vacancy occurred on the Supreme Court, and in 1988, the last year of Ronald Reagan's Republican Presidency, he sent a nominee to the U.S. Senate to be considered. Anthony Kennedy was a Reagan nominee, and the Democratic-controlled U.S. Senate not only gave Anthony Kennedy a hearing,

they gave him a unanimous vote, sending him to the Supreme Court. Despite the fact that Ronald Reagan was a ''lameduck''—the last year of his Presidency—the Senate at that time respected the Office of the Presidency and respected the Constitution enough to give Anthony Kennedy his day before the Senate Judiciary Committee, his day before the U.S. Senate. If it was fair enough for a Republican President in a Democratic Senate, why isn't the same standard to be used when it comes to President Obama's nominee being sent to the Senate on this day? It cannot be explained away.

What does this vacancy on the Supreme Court mean? There are only eight members of a nine-member Court. Already the Supreme Court has deadlocked twice on 4-to-4 tie votes since Justice Scalia's passing. Almost 50 cases still need to be decided in this term. Major legal questions may go unresolved because the Senate is not doing its job and not filling this vacancy.

Judge Garland does not deserve to be used as a pinata—a word used by a Senate Republican describing what he would face in the Senate. Let's give him an opportunity to rebut any attacks made against him. Let him explain himself on the record in full view of the American public. Let the American people decide if the ads and attacks against him are valid or baseless.

I urge my Republican colleagues: Do not follow the lead of rightwing advocacy groups and attack Judge Garland's character or record when you refuse to give the man a chance to respond at a public hearing. That is fundamentally unfair.

This is a real moment of truth for the Senate. No Supreme Court nominee has ever been denied a hearing before, and Merrick Garland should not be the first. The message of the American people to the Senate Republican majority is very simple, three words: Do your job. Do your job under the Constitution. Have a hearing. Be fair to this man. Don't dream up excuses. Don't argue with this President who won by 5 million votes over Mitt Romney. Don't disrespect the Office of the Presidency or the Constitution, which in its clarity establishes our responsibility to give a hearing to this nominee. My Republican colleagues need to do their job and to schedule a hearing for Merrick Garland without delay.

Mr. President, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GARLAND'S EX-CLERKS: CONFIRM OUR OLD BOSS

(By Mike DeBonis)

U.S. Appeals Court Judge Merrick Garland is getting a boost for his Supreme Court nomination from some of the lawyers who know him best: his former law clerks.

Sixty-eight former Garland clerks signed a letter delivered Monday to Senate leaders of both parties, urging them to confirm his nomination. The signers comprise all but three of the ex-clerks Garland has employed since he joined the U.S. Court of Appeals for the District of Columbia Circuit in 1997. And the three holdouts have a good reason: They are clerks for Supreme Court justices.

The three-page tribute is both professional and personal.

''There are not many bosses who so uniformly inspire the loyalty that we all feel toward Chief Judge Garland,'' the ex-clerks write. ''Our enthusiasm is both a testament to his character and a reflection of his commitment to mentoring and encouraging us long after we left his chambers. He has stood by our side during the happiest moments of our lives—quite literally, having officiated the weddings of seven of his former clerks. He has welcomed us and our growing families into his home. He is a constant source of career advice and guidance. And he has offered love and support in the dark times, too, when we have suffered setbacks, losses, and uncertainty.''

Clerkships on the D.C. Circuit are among the nation's most prestigious, second only to the Supreme Court itself. The signers have gone on to high-level positions in federal and state government, private practices and academia. Several have spent time in the office of the White House counsel; one of those lawyers, Danielle Gray, served as Cabinet secretary to President Obama.

The letter paints a familiar portrait of Garland as a careful judge, a hard-working public servant and a devoted family man. But it also offers a couple of glimpses behind the curtain.

In one notable passage, the clerks write that Garland ''taught us the value of diversity, in all its forms.''

''We observed how Chief Judge Garland forged meaningful connections with others from a wide array of backgrounds and ideological perspectives—from the law clerks he hires to the personal and professional relationships he maintains. He finds camaraderie with his fellow judges without regard to who nominated them to the bench. Chief Judge Garland deeply believes that our system of justice works best when those who see things differently are able to work together, in a collegial manner, to arrive at a just result. And when he must disagree with his colleagues, he always does so respectfully.''

And they describe how his private response to the Sept 11, 2001, attacks had a profound impression on the four clerks who were working for him at the time: ''From his chambers, we watched with horror the news about the attacks on the World Trade Center and the Pentagon. In the days after, we remember the explicit importance Chief Judge Garland placed on coming to the office everyday and continuing to prepare for upcoming cases. In the aftermath of that terrible tragedy, he believed it was more important than ever for the American people to see that their system of government was functioning without interruption—that the rule of law endured!''

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BLUMENTHAL. Mr. President, I want to join in the remarks just made by the senior Senator from Illinois that we have an obligation to do our job and to provide a hearing and a vote for the President's nominee—not as a matter of discretion or convenience but as a mandatory obligation we have as Members of this body. It is an obligation that comes from the Constitution, which says that we shall exercise this duty of advising and consenting.

For all the reasons my colleague has expressed so eloquently, the American people feel that it is our job, and they are right. Nothing so epitomizes the feeling of the American people that Washington is failing to work, that this body is failing to do its job, that the Congress and the Federal Government are failing the American people, than the failure to deal with this nominee. The refusal to even meet with him mocks the American system of justice. For all who care about the quality of our judicial nominee, this intransigence is both an insult and an injury, and it will do lasting damage to the Court if it drags this third branch of government into the mire of partisan bickering.

The judicial branch depends, for the enforceability of its decisions, on the trust and credibility of the American people that it is above politics and that decisions made by the judicial branch are on the merits without regard to the special interests and the money that so infects this branch, and they are entitled to our support for the credibility and trust of the judicial branch, and nothing epitomizes the need for that credibility and trust more than the U.S. Supreme Court. It is the highest Court in the land, and it is the most powerful. It is an anomaly in a democratic government because it is unelected, appointed for life, at the top of the judicial pyramid, exercising vast powers, with only the trust and credibility of the American people as its means of enforcement. It has no army or police of its own. Its decisions and enforceability depend for their effect on it being above politics. The controversy and the intransigence and refusal to even consider this nominee is a great threat to that institution.

LYME AND TICK-BORNE DISEASE PREVENTION, EDUCATION, AND RESEARCH ACT

Mr. President, on the issue of getting the job done, I want to go to a separate topic very much on our minds at this time of year, very distinct and different, but I want to join it in these remarks because it is timely as we begin the next phase of our bipartisan efforts to combat Lyme and tick-borne diseases.

We will be building support this week for a bill that has been introduced by Senator AYOTTE and me, with the strong involvement and leadership of Senator GILLIBRAND, S. 1503, the Lyme and Tick-Borne Disease Prevention, Education, and Research Act, with 13 cosponsors. It is a bipartisan bill that is critically important to public health.

Today we will be welcoming a number of my friends and constituents from Connecticut and around the country who are experts to provide briefings

to our staffs in sessions that have been organized by Senator AYOTTE, Senator GILLIBRAND, and me. We are very pleased to welcome some of the leaders of this effort: John Aucott, who is an assistant professor of medicine at the Johns Hopkins School of Medicine; Dr. Brian Fallon, a good friend and leading expert in this area and a professor at the Columbia College of Physicians and Surgeons; Ally Hilfiger, who has been a survivor and strong supporter and advocate; Rebecca Tibball, a fourth grade teacher from my home State of Connecticut who has been battling Lyme disease since August of 2014; and David Roth, also a leader and a longstanding patient advocate from New York who in his day job is a managing director at the private sector group Blackstone. These individuals are here to call attention to and build support for curing a disease that is literally exploding exponentially in this country and now constitutes an epidemic that literally impinges and cripples the lives of millions of Americans.

The Centers for Disease Control and Prevention indicates that more than 36,000 Americans suffered from Lyme disease in 2013. It says that the number who actually contracted this disease is probably 10 times higher because it is undetected and undiagnosed in so many people and it is underreported even when it is discovered in individuals. Most of the cases of Lyme disease occur in a limited number of States. Ninety-eight percent of them occur in Connecticut, Delaware, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia, and Wisconsin. I name those States because the Senators in those States ought to be behind this bill, every single one of them. But those cases are only the ones reported. In many States there is no systematic reporting of Lyme disease, so the full extent, breadth, and depth of this epidemic is truly unknown.

We know in this body how to respond and recognize a public health threat. It was done for Ebola. It is done for influenza. It hopefully will be done for Zika. What is needed is the same kind of bipartisan awareness and support for legislation to help people who suffer from Lyme and other tick-borne diseases.

Sometimes this Senator is asked: Why has the Congress failed to recognize and respond to this severe public health threat?

There is no good explanation except for the underreporting and the unawareness, and that is no excuse. In the meantime, the cases of Lyme disease are exploding in number, and the severity impacts our economy as well as the quality of life for Americans. It affects people's ability to perform their jobs, children's ability to go to school, and families' ability to function normally. The disease, if undetected and untreated, can cause the most severe kinds of pain and disability.

Lyme disease is named after a town in my State. I have always felt it was tremendously unfair for the beautiful and wonderful town of Lyme to have its name bear the burden of this disease, but regardless of the name, the burden is on the entire country—not simply on Connecticut and not simply on the Northeast or any part of the country or profession—to take action. That action must include provisions in this bill to strengthen Lyme disease surveillance and reporting, an education program, establishing epidemiological research objectives for tick-borne diseases, and the preparation of a regular report to Congress on the progress of efforts to combat these devastating tick-borne diseases. The effects are devastating, pernicious, and insidious, creeping into every aspect of a victim's life.

Our bill has earned the support of 13 Senators from both parties, including five members of the HELP Committee. When it comes to fighting Lyme disease, there is no partisanship. The ticks that carry this disease don't know a red State from a blue one. They don't make any discrimination between the boundaries of different States. The devastating diseases that can spring from these ticks are common to our entire country and therefore demand a national response and a Federal program that we have outlined in this bill.

I am proud to join with Senator AYOTTE and Senator GILLIBRAND in this effort. I urge my colleagues to support this bill, to send your staffs to the briefing we have today.

I thank others from Connecticut—such as Alexandra Cohen—who are going to be coming today, and I look forward to continuing this fight, which has to be one of a nationwide commitment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FLAKE). The Senator from South Dakota.

ISIS

Mr. THUNE. Mr. President, I rise to address last month's tragic terror attacks in Brussels and Istanbul by ISIS. It is critical for the Senate to consider these significant events as we get back to work on bills enhancing security and setting policies for air transportation.

In Brussels, 35 innocent people, including four Americans, lost their lives in barbaric attacks by ISIS at a subway station and airport terminal. In Istanbul, an ISIS suicide bombing killed four on Central Street and left dozens more injured. My thoughts and prayers are with those injured, the families of the victims, and the citizens of Belgium and Turkey.

In the past 2 years, ISIS has orchestrated 29 attacks on Western targets around the world, killing more than 650 innocent people. A decade ago, the group of violent jihadists behind ISIS fit a fairly conventional definition of a terrorist group. Operating in Iraq, they endeavored to kill Americans, Iraqis, and others working to build a free and democratic nation.

Today, however, calling ISIS a mere terrorist group may not fully convey the seriousness of the problem. ISIS, or the so-called Islamic State, has taken control of a significant amount of territory in Iraq and Syria. Within this territory, ISIS has established a self-proclaimed capital city and effective sovereignty over other populated urban centers. It collects taxes, operates and profits from oil well operations, controls banking, and rules over substantial agricultural acreage.

These operations help fund and sustain not only ISIS armed fighters but also the group's attempt to build actual institutions that spread its message of hate. Unfortunately, ISIS has enjoyed considerable success communicating and spreading its distorted vision of a grand Islamic caliphate claiming authority over all Muslims.

Branches of ISIS, trying to replicate what has happened in Syria and Iraq, have taken root elsewhere and carried out operations in destabilized areas, including Libya, the Sinai Peninsula of Egypt, and Yemen.

A recent report estimated that as many as 31,000 ISIS adherents have traveled from 86 countries to join the organization in Iraq and Syria. More than 5,000 of these recruits have come from Western Europe and 150 from the United States. In addition to those Americans who have actually traveled abroad, researchers at George Washington University estimated in December that there are 900 active investigations of ISIS sympathizers here in the United States. Let me repeat that—900 investigations of ISIS sympathizers here in the United States. This doesn't included those who have been radicalized without noticeable warning, such as a couple in San Bernardino who weren't known to authorities before they killed 14 in a shooting attack last December.

Over the past few years, ISIS's reach has expanded dramatically, and claims that our current policies have contained the organizations and its dangerous message are both false and reckless. We have had some successes in targeting senior ISIS officials, but as we saw in Brussels, in San Bernardino, and elsewhere, those efforts have not lessened the threat posed by a terrorist state that is successfully propagating its ideology all over the world.

So what can we do to protect against the threat posed by ISIS? Here are a few things:

First, we need a President who is committed to forming a robust coalition to destroy ISIS abroad. Real American leadership against ISIS must be manifested in sustained engagement against the enemy. We need an administration intent on eliminating the group's sources of income and its control of territory which facilitates an illusion of legitimacy for its followers. Incremental progress is not enough. Indeed, the Washington Post reported last week that some terrorism experts believe pressure on the group's finances

could make ISIS more dangerous and unpredictable until it is defeated.

Second, we need to control our borders. We need to know who is coming in and out of our country and why. This includes screening travelers for ties to ISIS and to its sympathizers. One of the greatest threats facing Europe is citizens who leave their homes to fight for ISIS and then return to recruit or conduct operations in their communities. We also face this threat from European ISIS fighters, the return of American citizens who have fought for ISIS, and agents of ISIS posing as war refugees. Although we have passed bipartisan legislation to tighten some screening requirements, we need the administration to enforce the law rather than attempt to undermine and work around it.

Third, as a final line of defense, we need to better secure the homeland. We must make sure the intelligence community, law enforcement, and Homeland Security officials have the tools they need to deter attacks and to stop plots before they are launched. This includes the need for constant reassessment of our vulnerabilities so we stay ahead of threats.

Tomorrow I will chair a hearing at the Commerce Committee with Transportation Security Administration Administrator Peter Neffenger, who happened to be in Brussels during the March 22 attacks. While we mainly see and know the Transportation Security Administration or TSA as the agency behind airport screening of passengers and baggage, the organization actually has a much broader charge. TSA is the designated Federal agency for all transportation security matters. As we know from independent covert testing that exposed TSA failures a year ago, TSA still has work to do to improve screening at airports, but TSA also needs to focus on securing transportation by train, bus, pipelines, and through our ports.

The diversity of the targets ISIS selected in its most recent attacks—a subway station, an unsecured airport terminal, and a busy street, underscores the challenge of protecting our citizens from an enemy seeking the path of least resistance to maximize its carnage. To stay ahead of this danger, security officials at TSA and other agencies need to be looking at potential threats before ISIS does.

Congress has a role in helping security officials stay ahead of ISIS. Aided by congressional oversight and congressional watchdogs, the Commerce Committee has already approved bipartisan legislation that Senator BILL NELSON and I have offered to address airport security vulnerabilities. Our bill is cosponsored by the Homeland Security Committee's chair and ranking member, Senator JOHNSON and Senator CARPER. Among other provisions, our legislation improves the vetting process for airport workers seeking or holding a security credential that grants access to restricted sections of an airport.

Over the past few weeks, a number of badged aviation industry workers have been caught in the act helping criminal organizations. On March 18, a flight attendant abandoned a suitcase with 68 pounds of cocaine after she was confronted by airport security officials in California. In Florida, on March 26, an airline gate agent was arrested with a backpack containing $282,400 in cash that he intended to hand off to an associate. According to press reports, the agent told authorities the money was connected to illegal activity, but he knew few other details. Some of the perpetrators in the deadly attacks in Brussels were previously known to authorities as criminals—but not terrorists.

As we work to address concerns about an insider threat scenario, where an aviation worker helps terrorists, criminals who have broken laws for their own financial gain and those with histories of violence are a good place to start. Ensuring that airport workers with security credentials are trustworthy is especially important, considering that ISIS in October killed 224 on a Russian flight leaving Egypt. Many experts believe this attack had help from an aviation employee.

In S. 2361, the Airport Security Enhancement and Oversight Act, Senator NELSON and I propose not only tightening vetting procedures for workers who need a security credential, but we also expand the list of criminal convictions that disqualifies an applicant from holding one. At present, even applicants convicted for embezzlement, racketeering, perjury, robbery, sabotage, immigration law violations, and assault with a deadly weapon can still obtain an airport security badge granting access to restricted areas. Our bill closes this loophole while updating airport security rules, expanding random inspections of airport workers, and requiring the review of airport perimeter security.

The Commerce Committee has also approved another TSA-related bill, H.R. 2843, the TSA PreCheck Expansion Act. This bill would expand participation in the TSA precheck application program by developing private sector partnerships and capabilities to vet and enroll more individuals. As a result, more passengers would be vetted before they even arrived at the airport and received expedited screening. This would get passengers through security checkpoints more quickly to ensure they don't pose the kind of easy target that ISIS suicide bombers found at the Brussels Airport.

Historically, this body has passed aviation security enhancements separate from a reauthorization of the Federal Aviation Administration. While I still prefer this separate approach and believe the Senate should pass our consensus security legislation without delay, I will pursue every option to enact these improvements and will vigorously oppose any effort to water down any security efforts that passed the Commerce Committee.

As we look at ISIS and consider necessary steps to stop attacks, let's remember our recent history of fighting terrorism. In the 1990s, our Nation not only fell behind on intelligence and airport security, but we did not act with force against Al Qaeda's enclaves in Afghanistan. This was true even after we recognized a significant threat following attacks on our embassies in East Africa and on the USS Cole in Yemen.

Only after the attacks on the World Trade Center and Pentagon did our Nation pursue a strong military response and adopt significant reforms to enhance our Homeland Security. Like Al Qaeda, ISIS is now a significant danger. While we are doing more to push our Homeland Security and intelligence agencies to meet current and future threats, we are unwise to allow this enemy time and multiple chances to inflict mass casualties.

As a legislative body, we have already passed legislation closing a border security vulnerability in our Visa Waiver Program and have an opportunity in the bill that Senator NELSON and I have offered to guard against an insider threat at airports. As lawmakers, we are going in the right direction. However, our responsibility to the people we represent does not end there. Until this administration or its successor changes the facts on the ground, we also have an obligation to speak about the continued threat of ISIS, especially when the administration downplays the need for a more aggressive response. We have an obligation to continue discussing the genocide of Christians and other religious groups in areas under ISIS control, and we have an obligation to scrutinize Executive actions and conduct rigorous oversight of administration initiatives that pose risks to our homeland. If we can't do this, we have learned very little.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE VILLANOVA WILDCATS ON WINNING THE 2016 NCAA MEN'S COLLEGE BASKETBALL CHAMPIONSHIP

Mr. CASEY. Mr. President, I wish to speak for a few minutes on the floor to send congratulations on my own behalf and also on behalf of the people of Pennsylvania to the Villanova Wildcats for a great win last night in the NCAA final.

It was a remarkable game for a lot of reasons. My wife and I watched every minute of it, as I know so many did. It was a remarkable game even before the last-second shot, but even more so after the shot made by Kris Jenkins.

We are grateful, on behalf of the people of Pennsylvania, to commend and salute Villanova University and, of course, the team itself.

In particular, I commend the players, not only Kris Jenkins but the entire team. At the same time, we commend the work done by Jay Wright. He is a great coach. He was awarded the Naismith Award as Coach of the Year this year, but we also commend him for leading Villanova this year and for the way he conducted himself, even in the aftermath of a win.

We learn a lot about people in victory and defeat, whether that is in the athletic contest or even in politics or life itself. I thought Jay Wright showed a lot of class in the way he conducted himself after winning, which is sometimes not the case in sports today.

I want to commend them as well for their great teamwork that obviously has to play out not just on the court in one game but over the length of a season—the practice and the hard work and the working together and the way they built each other up. There are so many instances where this team really was a team in reality, not just in terms of people talking about them as a team.

I am not sure they could have shot better. I am told—and I hope I have this right—they had a 58-percent shooting field goal percentage throughout the tournament. That is a remarkable achievement. Again, that doesn't just happen; it happens because of hard work and because of a great coach.

I want to commend and salute the team and congratulate them on winning a very difficult tournament. This is a tournament that had a lot of upsets and a lot of twists and turns before the team came out No. 1. That is a great achievement.

Finally, I commend and salute the university and Father Peter Donahue, the president. We know him as Father Peter. I want to thank him. He sent me a Villanova hat, which I wore during the semifinal game or part of the game. I made sure I wore it at least for a few minutes during the final game. I was grateful he sent me that reminder of team spirit.

In addition to Father Peter in the larger Villanova community, we want to salute the students, who were so loyal, and the fans, who may not have been students but who were either graduates of Villanova or just supporters. And of course the alumni made it possible for the team to have the kind of support they have had over many years.

OPIOID EPIDEMIC AND CHILDREN'S EXPOSURE TO LEAD POISONING

Mr. President, in my recent travels across Pennsylvania, two issues arose that I know the Presiding Officer and others may have heard about in the time they were away from Washington, and I know there are many others, but I will just mention two that the people of our State are thinking a lot about and are worried about and expect us to take action concerning.

No. 1 is the opioid epidemic across the country, which has caused the kind of death and devastation that none of us can even begin to imagine. In Pennsylvania alone, more than 2,700 people died in 2014 as a result of some kind of drug overdose. So this is a major challenge.

We made tremendous progress when we passed our bipartisan bill here, the so-called CARA bill. That was a good move and an important step for the Senate. I hope we can follow up on that with the $600 million in funding that local law enforcement and treatment experts and others have asked us for. We need to finish the job in terms of making sure the Senate is taking the right steps on this challenge.

The second issue—which I will mention just briefly because we don't have time today to develop it further—is lead poisoning in children. We know what happened in Flint, the horror and the tragedy of Flint, but in a State such as mine, the biggest challenge we have is not necessarily lead from water or in the water systems that would adversely affect children. In our case, because we have a lot of old homes, it is lead paint and the exposure to lead paint and the high lead levels that put children in a precarious situation in the short run but even long term because some of these impacts, if the levels are very high, can be irreversible.

We have to make sure we are doing more to protect our children not only in Pennsylvania but across the country in terms of making sure that fewer and fewer children are exposed to high lead levels. I know we will talk more about that.

Those are two major challenges that I know confront Pennsylvania and also confront our country.

With that, Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FLAKE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILLING THE SUPREME COURT VACANCY AND WORKING TOGETHER IN THE SENATE

Mr. CORNYN. Mr. President, as you know, we have been back home in our States for the last couple of weeks or traveling, listening to our constituents. It was great to be back home and to spend some time talking to the people who I work for about the challenges facing our country and what we have been doing in the U.S. Senate to try to address those challenges. While it is always true that people wish there would be more consensus building and more solutions offered, I would say that, by and large, people feel we had a pretty productive 2015 and are hoping we can continue that sort of productivity here in the Senate in 2016, even though this is a Presidential election year.

Yesterday was a good example of that productivity. We passed a trademark enforcement piece of legislation basically without—it was unanimous, to the best of my knowledge. All the Senators here in the Chamber voted for it without going through the official procedural hoops that are required in order to process legislation here in the Senate.

Previously we passed legislation—recently the Comprehensive Addiction and Recovery Act—to deal with the crisis involving opioid or prescription drug painkillers that are being abused around the country, and people are unfortunately falling into that trap, and then the cheap heroin that sometimes is used as a substitute if people can't find the opioid prescription drugs.

So Congress actually has been doing the people's business here. Of course, we are in the type of profession where people will sometimes say: Well, we think you are doing a great job. And others will say: Well, we don't think you are doing quite so great a job. But that is the nature of the beast. Either way, it is always good to be back home.

As I was talking to my constituents back home, I was glad to hear one thing. No matter what part of the State I was traveling in, there was appreciation for the decision we made to give the voters a voice on who makes the next lifetime appointment to the Supreme Court. Texans want to have a say in who replaces Justice Scalia on our Nation's highest Court, and I believe their voice should be heard.

We are already engaged in the Presidential primaries process. Today is the Wisconsin primary. It will not be that long before we have a new President who will make that appointment. I simply believe it is important—particularly in something that could extend for the next 25 or 30 years and really affect the balance of power on the Supreme Court—that this be left to the voters.

We all know we did not end up in this position overnight. In fact, there is a lot of history. I remember that back when I came to the Senate, I was frustrated by the fact that there was so much politics at play in the judicial confirmation process. Having served as a State court judge for 13 years, I had some pretty strong views about that. But the problem is, there has been a lot that has transpired in the interim. Everything from the Biden rule to the Reid statement in 2005 was really a threat saying that if President George W. Bush were to appoint a judge to the Supreme Court, it was within the authority of the U.S. Senate not to hold a vote on that appointment. That was in 2005. That was the Democratic leader. And then in 2007 when George W. Bush was still President, 18 months before he left office, Senator SCHUMER, the next Democratic leader, said there should be a presumption against confirmation. This is something that is nearly unprecedented. Then we know that in the interim there has been this development of filibusters or the requirement of 60 votes in order to get judges confirmed brought to us by our

Democratic friends, as well as something we didn't think would ever happen but, in fact, did happen under Democratic leadership: the so-called nuclear option—in other words, breaking the Senate rules in order to confirm judges mainly to the DC Circuit Court of Appeals—what some call the second most powerful court in the Nation—in order to pack that court with judges who are more likely to affirm President Obama's constitutional overreach.

So, as I said, much to my chagrin and I bet to a lot of people's chagrin, we have seen the playbook torn up by our Democratic colleagues and rewritten. The question is, Are we going to be operating under a different set of rules than they would if the roles were reversed? Frankly, my constituents back home think the rules ought to be the same no matter who happens to be in the majority and who happens to be in the White House.

Even more significantly, the Supreme Court is the final authority for many of the most pressing issues that face our country. The Court often acts as a constitutional counterweight to the passions of both the legislative and executive branches. We have seen the Supreme Court operate time and time again as a check on the Obama administration's lawless actions. We saw this in the recess-appointment case. We have seen it in a number of different cases where the Court has said to the Obama administration: You have simply overextended your reach beyond legitimate boundaries.

I am thankful for that important counterbalance in our government and the give-and-take that the Founding Fathers intended for us to have with three coequal branches of government. But, as I said, the next Supreme Court Justice could well change the ideological direction of the Court for a generation.

Rightly or wrongly, the Supreme Court has the final word on issues as varied as the scope of the President's power, the ability of the States to make their own decisions about self-government, and questions of personal liberty and the like. The Court can and has made all the difference in the world, and one Justice can affect that for a long time.

We recall Justice Scalia as somebody who believed that the words of the Constitution mattered greatly, and he served on the Court for 30 years. Justice Scalia was what was sometimes called an originalist. In other words, he believed the Court had an obligation to apply the Constitution and the law as written, not based on some substituted value judgment for what perhaps the unelected, lifetime-tenured judges would have preferred in terms of policy. That is not their role. They don't stand for election. It is our role as the policymakers in the political branches who do stand for election—and thus give the American people a chance to voice their pleasure or displeasure, as the case may be, with the direction that we perhaps take the country when it comes to policy. But that is not a role the Supreme Court should play.

We need to approach filling this seat with great care. The administration and their liberal allies are now trying to basically throw everything but the kitchen sink at stopping the American people from getting a voice in this matter. In other words, they are trying to force Congress's hand or the Senate's hand to confirm the Presidential nominee at this time. They are spending millions of dollars on TV advertising. They have hired consultants, and they found some sympathetic allies in the media to criticize us.

I don't begrudge anybody who has a different point of view than I do about this, but I simply cannot in good conscience vote to confirm another Obama nominee to the U.S. Supreme Court in the waning days of this President's term in office. I happen to believe we should not process this nomination. We should exercise the power we have under the Constitution to grant or withhold consent, and in this case to withhold consent.

But here we are, several weeks after the President announced his nominee, and nothing has really changed. All the money and the consultants in the world are not going to change the fact that the American people are going to have their say. We don't know exactly how that will turn out, but that is because this is based not on the personality of the nominee but on the principle that the American people should have their voice heard.

As I said, the President has the authority to nominate anybody he chooses, but that doesn't change our responsibility or our authority under that same Constitution. We remain committed to the idea that this vacancy should be filled by the next President.

I want to be clear that the American people do deserve a voice here, and we will make sure they are heard. In the meantime, as I started out saying, there are a lot of things we can do working together. Just because we disagree about this one item doesn't mean we have to disagree about everything or that Congress needs to lapse into dysfunction.

We currently have a bill pending before us involving the Federal Aviation Administration and the very important topic of safe and secure air travel. We can disagree about how to proceed with the President's nominee to the Supreme Court and still work together to pass other good consensus legislation. So I hope all of us, our colleagues across the aisle and on this side of the aisle, will continue to work together to do things I think would help the country a lot, things such as criminal justice reform—a bill that has been voted out of the Judiciary Committee, that enjoys broad bipartisan support, and that the President of the United States has said he supports.

There is also other important legislation that I am very concerned about and interested in involving the intersection of mental illness with our criminal justice system and the fact that our jails have become the de facto warehouses for people with mental illness who are going untreated and obviously the homeless who are living on our streets, many of whom are suffering from mental illness.

I hope we can continue to work together on these other consensus matters even though we disagree about this one very important matter. I am confident that we can and we will.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RUBIO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MERRICK GARLAND

Mr. CARDIN. Mr. President, during the recess last week, I had the opportunity to meet with Judge Merrick Garland of the U.S. Court of Appeals for the District of Columbia Circuit, President Obama's nominee to fill the existing vacancy of an Associate Justice of the U.S. Supreme Court. During our meeting, we discussed the role of the Supreme Court and protecting the civil rights of Americans. We discussed a number of national security challenges, including those relating to the detainees at Guantanamo Bay, Cuba. We discussed the Citizens United case and campaign finance law. We talked about the respect for each branch of government and our constitutional system of checks and balances. We spoke about the important role of precedent in our judicial decisions and the need to build consensus on decisions. We discussed the value of promoting pro bono work in the legal profession and the need to address the growing access-to-justice gap. I was pleased to hear that as an attorney at the Justice Department, Chief Justice Garland worked to clarify ethics rules to allow government lawyers to engage in additional pro bono work.

What I was doing is what I hope every Member in the Senate will do, and that is finding out more about Judge Garland, his judicial philosophy, the way he has conducted his life, his respect for the Constitution and the precedents of the judicial branch of government, looking at current issues and seeing how Judge Garland views those current issues. That is all part of a confirmation process.

The President, under the Constitution, has done his job; that is, he has made the nomination of who he believes should fill Justice Scalia's vacancy. It is now up to the Senate to do

our job, and our job starts with Members of the Senate meeting with Judge Garland to be able to see one-on-one, without cameras glaring, how Judge Garland responds to our individual issues. We obviously have his record, his background, his public service, what he has done as a lawyer, what he has done as a prosecutor, and what he has done as a judge on the circuit court. We also should have a confirmation hearing in the Judiciary Committee, which will give us more information.

Under the Constitution, the responsibility of the President is to make the nomination. It is now up to the Senate to do our job, and our job is to consider that nominee, for each Senator to learn as much as they possibly can—this is a critically important position, obviously, the Supreme Court of the United States—and for the institution to hold hearings and to vote. Each Senator will have to make his or her own judgment on whether we should vote for or against confirmation, but we have a responsibility to consider that nomination and a responsibility to vote.

I must say that I was very impressed by the nominee during the course of our meeting. He has impeccable qualifications as a prosecutor, judge, and now chief judge of what many call the second highest court in the land. The Senate confirmed Judge Garland on a bipartisan basis for his current judgeship, which he has held for nearly two decades. Chief Judge Garland strikes me as a thoughtful and deliberate person who has dedicated his life to public service. And I am proud to say that the nominee is a Marylander and lives in Bethesda in Montgomery County, MD.

Chief Judge Garland is the nominee for the Supreme Court and should be dealt with in this term of Congress. It is not a matter for the next President and the next Congress; it is a matter for this President and this Congress. There are 9 months left in this year, and to suggest that we don't have the time and the President doesn't have the authority to appoint a nominee is outrageous, and it is an affront to the Constitution.

This nomination is not about popularity or politics; it is about finding the next Justice who will advance the rule of law in this country, who will recognize the responsibility of the Supreme Court to be the final arbiter on constitutional issues, and having a person who can bring about greater consensus among his colleagues. As more of my colleagues meet Judge Garland, they will see that this is one of his many strengths. We need to go through the process and give Chief Judge Garland a chance.

I think it is hard to understand how you are excused from doing your job for 9 months by not having a confirmation hearing or vote. I don't think the American people understand that. Quite frankly, I don't understand that. I don't understand why we are not going through the regular order. Regular order would be for us individually to meet with Judge Garland and for the Judiciary Committee to hold a hearing and to schedule a timely vote on the floor of the Senate. I think more and more Senators will come to that conclusion. The President did his job, and it is now time for the Senate to do its job.

The American people want to see nine Justices on the Supreme Court when it convenes its new term in October. We have a new term beginning in October of this year. We expect to see nine Justices on the Court to make decisions. You don't resolve issues on a 4-to-4 vote. We hopefully will have greater consensus. We shouldn't have a divided Court. We should be able to get more collegiality on the Supreme Court, but we also should be able to make a decision. The Supreme Court needs to be able to make a decision. With eight Justices, in too many cases they are not going to be able to make a decision.

Article II, section 2, of the Constitution states that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court.'' The President has no alternative under the Constitution but to make a nomination when there is a vacancy. There is a vacancy on the Supreme Court due to Justice Scalia's untimely death. The President did his job. The Constitution says very clearly that we—the Senate—have to advise and consent. That is our requirement. That is not optional; we have that as a requirement. Never have we denied an opportunity to consider a Supreme Court nominee. It is now up to us to consider that nominee, and we should consider that nominee by doing our job—interviewing Judge Garland, scheduling a committee hearing, and voting on that nominee.

The American people twice elected President Obama to a 4-year term in office. Their voice has been heard very clearly. Elections have consequences, and President Obama has carried out the constitutional responsibilities and duties of his office by nominating Judge Garland as the successor to Justice Scalia. The President is simply doing the job the American people elected him to do. The President doesn't stop working simply because it is an election year. He has more than 9 months left in office, as do Senators who will face the voters in November. Congress should not stop working, either, in this election year.

Of course, every Senator has the right to make his or her own judgment on whether they will vote for or against confirmation. Senators were elected for 6-year terms by the citizens of their States and have the right and obligation to vote as they see fit. President Obama was elected by the people of the United States for two 4-year terms and has the right and obligation to nominate judges.

History has shown that when the roles were reversed and Democrats held the majority in the Senate, Supreme Court and judicial nominees for Republican Presidents were given hearings and up-or-down votes regardless of when the vacancies occurred. While I might have picked different judges, as a Senator, I voted to confirm the vast majority of President Bush's judicial nominations in his final year in office. I will continue to carry out my constitutional responsibilities that I undertook when I became a Senator and swore to support the Constitution.

Let me remind my colleagues that a democratically controlled Senate confirmed Justice Kennedy to the Supreme Court during the last year of President Ronald Reagan's final term in 1988. Senators also confirmed Justice Murphy in 1940, Justice Cardozo in 1932, and Justice Brandeis in 1916. The precedent of the Senate indicates that we need to take up this nominee.

What the Republicans are effectively trying to do is temporarily shrink the Supreme Court from nine to eight Justices and shorten the term of the President from 4 years to 3 years. Why? Because the President is of a different party than the Senate. This is disgraceful and indefensible.

Let me quote Justice Sandra Day O'Connor, who was appointed by President Ronald Reagan in 1981 as the first female Justice of the Supreme Court. When asked about the vacancy on the Court created by the death of Justice Scalia, Justice O'Connor said, ''We need somebody there now to do the job, and let's get on with it.'' I agree with Justice O'Connor. Let's do our job and fulfill the Senate's constitutional responsibilities and vote up or down on Judge Garland's nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 12:25 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

AMERICA'S SMALL BUSINESS TAX RELIEF ACT OF 2015—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 20 minutes as in morning business.